

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AMERICAN EMPIRE SURPLUS LINES
INSURANCE COMPANY,

Plaintiff,

-against-

DISANO DEMOLITION CO., INC., et al.,

Defendants.

ORDER
18-CV-5047 (NGG) (CLP)

NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiff American Empire Surplus Lines Insurance Company (“American Empire”) brought this action in an effort to recover premiums owed under insurance policies it had issued to Defendant Disano Demolition Co., Inc. (“Disano”). (See Compl. (Dkt. 1); Am. Compl. (Dkt. 6); Second Am. Compl. (Dkt. 29).) Following service of the Second Amended Complaint, the court granted Disano’s counsel’s motion to withdraw. (See Mot. to Withdraw (Dkt. 17); May 23, 2019 Order Granting Mot. to Withdraw.) After no new counsel appeared for Disano, the Clerk of Court entered a certificate of default on June 24, 2019. (See Clerk’s Entry of Default (Dkt. 38).) The court subsequently referred American Empire’s Motion for Default Judgment to Chief Magistrate Judge Cheryl L. Pollak for a Report and Recommendation (“R&R”). (See Sept. 27, 2019 Order Referring Mot.) On January 2, 2020, Judge Pollak issued an R&R recommending that the court enter a default judgment in favor of American Empire in the amount of \$216,394.00. (See Jan. 2, 2020 R&R (Dkt. 44).) American Empire objected to the R&R, insofar as Judge Pollak recommended that no interest or attorney’s fees be awarded. (See Pl. Obj. to Jan. 2, 2020 R&R (Dkt. 45).)

On January 29, 2020, before the court had ruled on Judge Pollak’s R&R and American Empire’s objection, Edgar Ventura filed a letter application with the court seeking to intervene and to object to the R&R. (See First Mot. to Intervene (Dkt. 47).) On February 13, 2020, Un Lee and Yun Lee-Ilto also sought to intervene and to object to the R&R. (See Mot. to Intervene (Dkt. 51); Second Mot. to Intervene (Dkt. 54).) The court stayed the Motion for Default Judgment,

pending resolution of the Motions to Intervene, and referred the motions to intervene to Judge Pollak for an R&R. (See Jan. 29, 2020 Order Staying Mot. for Default J.; Apr. 8, 2020 Order Referring Mots.) Judge Pollak issued the annexed R&R on November 12, 2020, recommending that the court deny the motions to intervene. (Nov. 12, 2020 R&R (Dkt. 61) at 18.)

No party has objected to Judge Pollak's R&R, and the time to do so has passed. See Fed. R. of Civ. P. 72(b)(2). Therefore, the court reviews the R&R for clear error. See *Gesualdi v. Mack Excavation & Trailer Serv., Inc.*, No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). Having found none, the court ADOPTS the (Dkt. 61) R&R in full and DENIES the (Dkts. 47, 51, 54) Motions to Intervene.¹

SO ORDERED.

Dated: Brooklyn, New York
December 7, 2020

/s/ Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge

¹ Plaintiffs (Dkt. 42) Motion for Default Judgment, Judge Pollak's (Dkt. 44) R&R recommending that a default judgment enter in favor of Plaintiff, and Plaintiffs (Dkt. 45) Objection to aspects of that R&R remain *sub judice*.